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10/575,654	04/14/2006	Hans Binder	2693-000023/US/NP	2298
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HARNESSE, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303				
EXAMINER				
VANTERPOOL, LESTER L				
ART UNIT		PAPER NUMBER		
3782				
MAIL DATE		DELIVERY MODE		
05/13/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/575,654

**Applicant(s)**

BINDER ET AL.

**Examiner**

LESTER L. VANTERPOOL

**Art Unit**

3782

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SE/US)  
Paper No(s)/Mail Date April 14, 2006.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 5, 6, 7, 8, 9, 11 & 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Lumpe (U.S. Patent Number 5893499).

Lumpe discloses the roof rack (1 & 2) for the vehicle (4) having at least one preferably tubular rail extending essentially at the distance from the roof surface (4) of the vehicle and at least two supports (50) at the ends of the rail to attach the roof rack to the vehicle roof (4) (See Figures 3 & 4), where the rail is shaped to have the curve in the end areas and in the area of each curve is held from below by the support (50) (See Figures 1 & 3), which can be attached / is attached to the rail (See Figures 3 & 4), the underside of the support (50) – when viewed in cross – section – forming the flat supporting surface for the matching surface on the rail (See Figures 3 & 4).

Regarding claim 5, Lumpe discloses the top side of the support (50) is arcuate when viewed in longitudinal section (See Figure 4).

Regarding claim 6, Lumpe discloses the matching surface of the rail is flat when viewed in cross – section (See Figure 2).

Regarding claim 7, Lumpe discloses the matching surface of the rail runs in the arc when viewed in longitudinal section (See Figures 1, 3, 4 & 5).

Regarding claim 8, Lumpe discloses the top side of the support (50) runs in the convex arc (See Figure 4).

Regarding claim 9, Lumpe discloses the matching surface of the rail (1) runs in the concave arc (See Figures 1 & 3).

Regarding claim 11, Lumpe discloses the support (50) is bolted to the rail (1) by means of at least one threaded bolt (6) (See Figure 3).

Regarding claim 12, Lumpe discloses the head of the threaded bolt (6) is carried in the receptacle (53) in the support (50) (See Figure 3).

3. Claims 1 – 4, 10 & 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Stapleton (U.S. Patent Number 7204396 B1).

Stapleton discloses the roof rack (10 & 20) for the vehicle (8) having at least one preferably tubular rail (24 & 28) extending essentially at the distance from the roof surface of the vehicle (8) and at least two supports (22 & 26) at the ends of the rail (24 & 28) to attach the roof rack (10 & 20) to the vehicle roof (See Figures 1A & 2), where the rail (24) is shaped to have the curve in the end areas and in the area of each curve is held from below by the support (22 & 26) (See Figures 1A & 2), which can be attached / is attached to the rail (22 & 26) (See Figures 1A & 2), the underside of the support (22 & 26) – when viewed in cross – section – forming the flat supporting surface for the matching surface on the rail (See Figures 2).

Regarding claim 2, Stapleton discloses the support (22 & 26) has the retaining projection (66) which engages the interior of the tubular rail (24) (See Figure 2).

Regarding claim 3, Stapleton discloses the retaining projection (66) engages the end of the tubular rail (24) (See Figure 2).

Regarding claim 4, Stapleton discloses the cross – sectional profile of the retaining projection (66) is configured to match the shape of the internal cross – sectional profile of the tubular rail (24).

Regarding claim 10, Stapleton discloses the rail (28) has the step (See Portion between 70 & 71) in Figure 2) which is held from the rear by the second of the support (22) in the transition from the zone allocated to one of the supports to the support – free zone (See Figure 2).

Regarding claim 13, Stapleton discloses the support has the mounting plate (60) to which the retaining element (26) with the matching surface is attached and which has the retaining projection (66) (See Figure 2).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LESTER L. VANTERPOOL whose telephone number is (571)272-8028. The examiner can normally be reached on Monday - Friday (8:30 - 5:00) EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lester L. Vanterpool/  
Examiner, Art Unit 3782

/Nathan J. Newhouse/  
Supervisory Patent Examiner, Art Unit 3782